IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

MFA.No. 153 of 1992(E)

OPMV.792/1985 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANT:

ANNIE JACOB,D/O.JACOB,KADAVIL HOUSE,
CHERIYAKADAVU, COCHIN.

BY ADV. SMT.M.A.VAHEEDA BABU
SRI.JAGAN ABRAHAM M.GEORGE

RESPONDENTS:

1.CHARLES ROBERT,S/O.LATE ROBERT,
KUTTAPPACHERRY HOUSE, CHERIYAKADAVU,
COCHIN.

2.NEW INDIA INSURANCE CO. LTD.,
SUB JAIL ROAD, ALWAYE

BY ADV. SRI.C.K.ARAVINDAKSHA MENON FOR R1
SRI.T.B.THANKAPPAN
SRI.MATHEWS JACOB FOR R2

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.153 OF 1992()

Dated this the 5th day of November, 2007

J U D G M E N T

KOSHY,J.

Appellant filed an application for compensation before the Motor Accident Claims Tribunal, Ernakulam contending that she met with an accident on 17.3.1985 at 5.30 p.m. while the appellant was walking on the road from north to south, a scooter bearing registration No.KBE 5032 driven by the 1st respondent hit the appellant causing serious injuries which resulted in cerebral concussion, bleeding and clavicle fracture. She was admitted on 17.3.1985 on the same day in the Medical Trust Hospital. She was only 11 years old at the time of accident. The tribunal rejected the case on the ground that accident was not proved. Tribunal noticed that no F.I.R. was filed. No criminal case was registered and no private complaint was also filed before the Magistrate for non registration of the case. But it is pertinent to note that the respondents filed a

counter affidavit wherein it is stated that 1st respondent is not responsible for the accident but claimant herself is responsible for the accident. But there is no evidence to prove that injury as mentioned in Ext.A1 was caused due to accident and wound certificate was not produced. It is not mentioned in Ext.A1 certificate that injury was caused in a road traffic accident. No disability certificate was also produced to show that as a result of the injuries, she suffered permanent disability. In these circumstances, we are unable to allow the appeal. Hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.153 OF 1992 ()

J U D G M E N T

5th November, 2007